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HOUSE BILL 825

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO UTILITIES; CREATING ADDITIONAL CONDITIONS FOR AN EXCAVATION REQUEST.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 62-14-3 NMSA 1978 (being Laws 1973, Chapter 252, Section 3, as amended) is amended to read:

"62-14-3. EXCAVATION. --

[Every] A. A person who prepares engineering plans for excavation or who engages in excavation shall:

[A.] (1) determine the location of any underground facility in or near the area where the excavation is to be conducted [~~including a~~] and request [~~to~~] the owner or operator of the underground facility to locate and mark the underground facility pursuant to Section 62-14-5 NMSA 1978 if:

(a) excavation is scheduled to commence

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1 within ten working days of the initial locate request;

2 (b) the locate request clearly
3 identifies the proposed excavation area; and

4 (c) the locate request is limited to the
5 specific area in which the requester intends to excavate;

6 [~~B.-~~] (2) plan the excavation to avoid or
7 minimize interference or damage to underground facilities in or
8 near the excavation area;

9 [~~C.-~~] (3) provide telephonic advance notice of
10 the commencement, extent and duration of the excavation work to
11 the one-call notification system operating in the intended
12 excavation area, or the owners or operators of any existing
13 underground facility in and near the excavation area that are
14 not members of the local one-call notification center, in order
15 to allow the owners to locate and mark the location of the
16 underground facility as described in Section 62-14-5 NMSA 1978
17 prior to the commencement of work in the excavation area and
18 shall request reaffirmation of line location every ten working
19 days after the initial locate request;

20 [~~D.-~~] (4) prior to initial exposure of the
21 underground facility, maintain at least an estimated clearance
22 of eighteen inches between existing underground facilities for
23 which the owners or operators have previously identified the
24 location and the cutting edge or point of any mechanical
25 excavating equipment utilized in the excavation and continue

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1 excavation in a manner necessary to prevent damage;

2 [E-] (5) provide such support for existing
3 underground facilities in or near the excavation area necessary
4 to prevent damage to them;

5 [F-] (6) backfill all excavations in a manner
6 and with materials as may be necessary to prevent damage to and
7 provide reliable support during and following backfilling
8 activities for preexisting underground facilities in or near
9 the excavation area;

10 [G-] (7) immediately notify by telephone the
11 owner of any underground facilities [whi-eh] that may have been
12 damaged or dislocated during the excavation work; and

13 [H-] (8) not move or obliterate markings made
14 pursuant to Chapter 62, Article 14 NMSA 1978 or fabricate
15 markings in an unmarked location for the purpose of concealing
16 or avoiding liability for a violation of or noncompliance with
17 the provisions of Chapter 62, Article 14 NMSA 1978.

18 B. A person who prepares engineering plans for
19 excavation or who engages in excavation and who willfully fails
20 to comply with Paragraph (1) of Subsection A of this section
21 shall be liable to the owners or operators of underground
22 facilities for the cost of the facility owner or operator
23 locating and marking the underground facility, not to exceed
24 two thousand five hundred dollars (\$2,500)."

25 Section 2. EFFECTIVE DATE. --The effective date of the

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1 provisions of this act is July 1, 2003.

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